

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

**PLANTATION PIPE LINE COMPANY
AI # 582**

**PROCEEDINGS UNDER THE LOUISIANA
ENVIRONMENTAL QUALITY ACT
LA. R.S. 30:2001, ET SEQ.**

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* **Enforcement Tracking No.**

* **AE-CN-04-0001**

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SETTLEMENT

The following Settlement is hereby agreed to between Plantation Pipe Line Company (“Respondent”) and the Department of Environmental Quality (“DEQ” or “the Department”), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. (“the Act”).

I

Respondent is a non-Louisiana business corporation who operates a tank farm facility at 2200 Blount Road in Baton Rouge, East Baton Rouge Parish, Louisiana (“the Facility”).

II

On January 8, 2004, the Department issued to Respondent a Consolidated Compliance Order/Notice of Potential Penalty, tracking #AE-CN-04-0001, which was based upon the following findings of fact (among others):

- A. The Respondent’s HP5 project, permitted as a minor modification on November 5, 1999, would have been considered a major modification under the Nonattainment New Source Review program based on an actual to potential emissions increase for the emissions associated with potential roof landings. The failure to obtain a Nonattainment New Source Review permit prior to construction of a major modification is a violation of LAC

33:III.504.D and Section 2057(A)(2) of the Act.

- B. Based on a review using the emission estimation methodology recently approved by the Department to account for roof landing emissions, the Respondent's facility has historically operated with actual emissions above the major source threshold for Louisiana Toxic Air Pollutants. The Respondent's failure to submit a certification of compliance or a compliance plan for achieving compliance with Maximum Available Control Technology (MACT) requirements by no later than December 20, 1992, is a violation of LAC 33:III.5109.A, LAC 33:III.5109.D.1, and Section 2057(A)(2) of the Act.
- C. Based on a review using the emission estimation methodology recently approved by the Department to account for roof landing emissions, the Respondent's facility has historically operated with actual emissions above the major source threshold for Louisiana Toxic Air Pollutants. The Respondent's failure to submit a certification of compliance with applicable ambient air standards by no later than December 20, 1992, is a violation of LAC 33:III.5109.B, LAC 33:III.5109.D.1, and Section 2057(A)(2) of the Act.
- D. Based on a review using the emission estimation methodology recently approved by the Department to account for roof landing emissions, the Respondent's facility has historically operated with actual emissions above the major source threshold for Louisiana Toxic Air Pollutants. The Respondent's failure to apply for a permit for an existing major source of Toxic Air Pollutants operating without a Louisiana Air Permit by no later than December 20, 1993, is a violation of LAC 33:III.5111.A.4 and Section 2057(A)(2) of the Act.
- E. The Respondent's historical Emission Inventory Statements (EIS) have not included estimates of VOC emissions resulting from tank roof landings. The Respondent's failure to report actual emissions data annually is a violation of LAC 33:III.919.E and Section 2057(A)(2) of the Act.
- F. The Respondent has not submitted historical Toxic Emission Data Inventory ("TEDI") reports. As a major source of air toxics, the Respondent's failure to report the actual quantity of emissions annually for any TAP emitted is a violation of LAC 33:III.5107.A and Section 2057(A)(2) of the Act.
- G. The Department issued Small Source Permit No. 2644 on November 5, 1999, for the HP5 project. The Respondent's letter of

December 11, 2003, reported that two sumps were omitted from the June 2, 1999, permit modification application for the HP5 project. The Respondent's failure to obtain a permit for the two sumps prior to construction and/or operation is a violation of LAC 33:III.501.C.2 and Sections 2057(A)(1) and (A)(2) of the Act.

III

Respondent did not request a hearing on the Consolidated Compliance Order/Notice of Potential Penalty, and it is now final and enforceable.

IV

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

V

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of three hundred thousand dollars and no cents (\$300,000.00), of which one-thousand three-hundred fifty-eight dollars and forty-eight cents (\$1,358.48) represents DEQ's enforcement costs, in settlement of the claims set forth in this agreement.

VI

Respondent further agrees that the Department may consider the Consolidated Compliance Order/Notice of Potential Penalty and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

VII

This agreement shall be considered a final order of the secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement, except such review as may be required for interpretation of this agreement in any action by the Department to enforce this agreement.

VIII

This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in LSA- R. S. 30:2025(E) of the Act.

IX

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in East Baton Rouge Parish. The advertisement, in form, wording, and size approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted a proof-of-publication affidavit to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

X

Following the close of the forty-five day public notice of the settlement, and upon approval by the Louisiana Attorney General, the Respondent and the Department shall cause to be filed in the 19th Judicial District Court for the Parish of East Baton Rouge a Petition for Civil Penalties, Consent Decree, and Joint Motion for Entry of Consent Decree to resolve and settle such Petition for Civil Penalties pursuant to the terms of this Settlement Agreement.

XI

Payment of the penalty described in Paragraph V is to be made within ten (10) days from notice of the entry of the Consent Decree in the 19th Judicial District Court for the Parish of East Baton Rouge. If payment is not received within that time, this Agreement is voidable at the option of the Department. Penalties are to be made payable to the Department of Environmental Quality and mailed to the attention of Darryl Serio, Office of Management and Finance, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303.

XII

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement.

XIV

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his/her respective party, and to legally bind such party to its terms and conditions.

WITNESSES:

PLANTATION PIPE LINE COMPANY

Kinta H. Castello
(Signature)

Kinta H. Castello
(Printed or Typed)

L. L. [Signature]
(Signature)

Jason L. Castello
(Printed or Typed)

BY: Earl J. Crochet
(Signature)

Earl J. Crochet
(Printed or Typed)

TITLE: Operations Manager

THUS DONE AND SIGNED in duplicate original before me this 26th day of
JANUARY, 20 04, at ZACHARY LA.

James Edward Castello
NOTARY PUBLIC (ID # _____)

JAMES EDWARD CASTELLO
(Printed or Typed)

WITNESSES:

ST R
(Signature)

Steven Beard
(Printed or Typed)

[Signature]
(Signature)

Ted R. Boyer, II
(Printed or Typed)

STATE OF LOUISIANA

Mike D. McDaniel, Ph.D., Secretary
Department of Environmental Quality

BY: Harold Leggett
Harold Leggett, Ph.D., Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 11 day of
May, 2004, at Baton Rouge, Louisiana.

Christopher A. Ratcliff
NOTARY PUBLIC (ID # 18675)

Christopher A. Ratcliff
(Printed or Typed)

Approved: R. Bruce Hammett
R. Bruce Hammett, Assistant Secretary



CHARLES C. FOTI, JR.
ATTORNEY GENERAL

State of Louisiana
DEPARTMENT OF JUSTICE
P.O. BOX 94005
BATON ROUGE
70804-9005

April 29, 2004

Mike D. McDaniel, Secretary
La. Department of Environmental Quality
Office of the Secretary
P.O. Box 4301
Baton Rouge, LA 70821-4301

Re: Review of DEQ Settlement;
Plantation Pipeline Company
AE-CN-04-0001; AI #582

Dear Secretary McDaniel:

Pursuant to the authority granted to me by R.S. 30:2050.7(E)(2)(a), I approve the above referenced settlement.

Sincerely,


NICHOLAS GACHASSIN
First Assistant Attorney General

NG/cbw

RECEIVED

MAY 10 2004

**LA Dept. of Environmental Quality
LEGAL DIVISION**